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Convention on the Elimination of All Forms of Discrimination against Women

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Committee on the Elimination of Discrimination against Women
Sixty-third session

Summary record of the 1376th meeting
Held at the Palais des Nations, Geneva, on Tuesday, 16 February 2016, at 3 p.m.

Chair: Ms. Gabr (Vice-Chair)

Contents

Consideration of reports submitted by States parties under article 18 of the Convention (*continued*)

Combined seventh and eighth periodic reports of Japan (continued)

Tribute to Mr. Boutros Boutros-Ghali

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The meeting was called to order at 3 p.m.

Consideration of reports submitted by States parties under article 18 of the Convention (*continued*)

Combined seventh and eighth periodic reports of Japan (continued) (CEDAW/C/JPN/7-8; CEDAW/C/JPN/Q/7-8 and Add.1)

1. *At the invitation of the Chair, the delegation of Japan took places at the Committee table.*

2. **Mr. Otsuka** (Japan) said that a discussion was under way in the Diet on the development of a bill to protect the rights of sexual minorities. On the issue of restraining orders, the Government of Japan shared the Committee's concerns. While the courts made decisions about such orders on an individual basis, swift action was taken to protect women if there was a risk of domestic violence, and temporary shelters were available.

3. **Ms. Tsuchiya** (Japan) said that rape cases could currently be prosecuted only if the victim lodged a complaint. Discussions were under way in the Legislative Council about the possibility of introducing an amendment to change that, however. Sexual intercourse with minors under the age of 13, even when it was consensual, was punishable by between 3 and 20 years of imprisonment. Law enforcement officials had been stepping up their efforts to combat the distribution of pornography and related offences and had made 185 arrests in that connection in 2014.

Articles 7 to 9

4. **Ms. Nwankwo** said that women were underrepresented in numerous fields in Japan, as demonstrated by the statistics provided in the State party's report and by its quite low ranking in the world classification prepared by the Inter-Parliamentary Union on women in national parliaments and in the Global Gender Gap Report for 2015 prepared by the World Economic Forum. In the Committee's concluding observations of 2009 (CEDAW/C/JPN/CO/6), it had requested information on the representation of women, including migrant and minority women, in political and public life. Could the State party please provide further information on that subject? Alternative sources had indicated that Ainu women were not represented in meetings of the Comprehensive Ainu Policy Office, that Okinawans, and Okinawan women in particular, were not included in negotiations on matters that affected them and that Korean immigrants were not able to vote, regardless of how long they had resided in Japan. Did the State party plan to increase the number of women, including women with disabilities, in political and public bodies in order to ensure that their viewpoints were properly represented so as to reflect the full diversity of the population? It was her understanding that, as of 2013, the State party had only one female ambassador serving overseas, while only 16 per cent of the total staff in overseas diplomatic missions were women. She would therefore welcome information on the efforts being made by the State party to fulfil its obligations under article 8 of the Convention. She would also like to know whether article 8 of the Convention was, as a matter of policy, considered when the State party appointed individuals to positions in international organizations. Under the single-seat constituency system it was especially difficult for women and persons belonging to minority groups to run for election. Was the State party considering undertaking electoral reform to introduce proportional representation, which would result in a more inclusive election system?

5. **Ms. Takegawa** (Japan) said that political parties had been urged to take affirmative action to increase the representation of women in the Diet. Women from minority groups were indeed included in decision-making processes that affected

them. For example, two Ainu women sat on the Council for Ainu Policy Promotion. Japan faced numerous challenges in ensuring equal representation of women since society as the country had a male-oriented employment and political culture which needed to be changed. Capacity-building for potential women candidates was also an issue, and both of those points were addressed in the Fourth Basic Plan.

Articles 10 to 14

6. **Ms. Jahan** said that the State party was to be commended for placing priority on ensuring equal access to education at all levels for women and girls and for the progress that had been made in that regard in recent years. However there was still a significant gender gap in enrolment rates in higher education and in certain fields of study. The Third Basic Plan had placed priority on the promotion of gender equality in science and technology, but the State party's report had not described the strategy that was being used to increase the numbers of female researchers in those fields. Had temporary special measures or financial support been provided for that purpose? The number of women in education was very low, with very few women occupying managerial positions or holding professorships in institutions of higher learning. What strategy was being used by the State party to achieve gender parity at all levels of education? She would also welcome information on the steps being taken to encourage women to assume leadership and decision-making posts at university level.

7. The Committee had expressed concern in its previous concluding observations about the abrogation of article 5 of the Basic Act on Education, which referred to the promotion of gender equality. Was consideration being given to its reinstatement? In its report, the State party had said that students were taught about gender equality and human rights, but it was not clear whether gender equality was specifically included in school curricula. Alternative sources had indicated that women belonging to ethnic minority groups, migrant women and women with disabilities all had low literacy rates. The Committee was in need of more data in order to gain a clear picture of the situation in that regard. Were there plans to regularly collect disaggregated data on women belonging to such groups and were specific measures in place to promote the education of those women?

8. **Mr. Bruun** said that the average woman in Japan earned from 40 to 50 per cent less than the average man. The new Act on the Promotion of Women's Participation and Advancement in the Workplace was a step forward but the State party should also consider implementing the principle of equal pay for work of equal value, in accordance with the International Labour Organization (ILO) Equal Remuneration Convention, 1951 (No. 100), which it had ratified. A clause was needed in the Equal Employment Opportunity Act to explicitly prohibit direct and indirect discrimination based on gender. That was especially true given that the Supreme Court of Japan had previously interpreted wage discrimination in a quite narrow sense. The Committee welcomed the legislative efforts of the Government to address the many difficulties relating to pregnancy and maternity faced by women in Japan but believed that a clear prohibition of discrimination in that regard was needed, in particular given the large numbers of women in precarious employment situations. Did the State party plan to ratify the ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111) and to take legislative measures to prohibit sexual harassment in the workplace, which was reportedly widespread?

9. **Ms. Haidar** said that the Committee was concerned about the intersectional discrimination in the labour market faced by women with disabilities and women belonging to ethnic minorities. Those women were often unemployed and, when they did secure work, it was frequently in jobs of a precarious nature in which there were significant pay gaps between them and their male colleagues. Was the State party

planning to enact comprehensive anti-discrimination legislation to address that situation? He would like to know whether the State party was considering ratifying the ILO Domestic Workers Convention, 2011 (No. 189) and whether temporary special measures were to be introduced to address imbalances in the labour market.

10. **Ms. Pimentel** said that she would appreciate more information about the sex education programme in Japan and its results and about what kind of information was provided to migrant and ethnic minority women on the health services available to them. Alternative sources had indicated that the number of abortions performed on girls under the age of 15 was increasing. Could the State party please clarify what measures were being taken to prevent unwanted pregnancies, especially among young girls? Was the State party prepared to consider doing away with the requirement that a woman seeking an abortion had to obtain the consent of her husband and explicitly legalizing abortion in the case of rape, incest or severe malformation of the fetus? She also wished to know what steps the State party was taking to act upon the recommendations made by the Human Rights Committee in its concluding observations of 1998 (CCPR/C/79/Add.102) regarding the provision of compensation to disabled women who had been victims of forced sterilization.

11. Given that the State party had signed Human Rights Council resolution 17/19 (A/HRC/RES/17/19), she would like to know when discriminatory legislation targeting transsexual persons was to be amended and how the Government planned to go about discrediting the concept of gender identity disorder. What steps were being taken to ensure that transgender people were guaranteed access to health care? Information would be welcome on the social and medical services provided to women with mental health disorders and on the steps taken to reduce the reportedly high suicide rate among lesbian, gay, bisexual and transgender persons. She would also appreciate information on the steps taken to provide free, appropriate medical care to women in areas subject to evacuation who had been exposed to dangerous levels of radiation, especially in view of the fact that women were more sensitive to radiation than men, according to the World Health Organization (WHO).

12. **Mr. Komatsuzaki** (Japan) said that one of the main objectives of the Third and Fourth Basic Plans for Gender Equality was to narrow the gap between the sexes in terms of enrolment in tertiary education. Economic support, including interest-free or low-interest loans, was provided to women belonging to minority groups, and scholarships were made available as a means of promoting equality of opportunity. Under the Act on the Promotion of Women's Participation and Advancement in the Workplace, universities were required to take specific steps to uphold women's right to participate in university life. With regard to the question concerning the abrogation of article 5 of the Basic Act on Education, the emphasis was on the promotion of co-education, and most schools were now co-educational, rendering article 5 unnecessary. Non-discrimination in education was explicitly provided for in the Basic Act on Education, and children were taught about the importance of equal rights and equal opportunities for men and women in school.

13. **Ms. Genka** (Japan) said that the focus was on encouraging businesses to improve the working environment rather than on strengthening penalties for sexual harassment in the workplace. Japan had ratified the ILO Abolition of Forced Labour Convention, 1957 (No. 105), but further study was needed before making a decision as to whether to ratify ILO Convention No. 111. The Labour Standards Act and court rulings made it clear that men and women should be paid the same wage, and no further laws on that issue were considered necessary. All gender-based discrimination was prohibited in Japan by the Employment Opportunity Act, as was discrimination based on place of origin.

14. **Mr. Mizushima** (Japan), responding to a question on the ratification of the ILO Domestic Workers Convention, 2011 (No. 189), said that all appropriate labour standards and regulations also applied to domestic workers contracted to work for Japanese companies. Careful study would be necessary to determine the consistency of ILO Convention 189 with Japanese law before ratification would be possible.

15. **Ms. Takegawa** (Japan) said that in order to deal with radiation risks, Fukushima Prefecture had established a health-care fund that covered health checks, including thyroid examinations and ultrasounds, for all residents, and special attention was devoted to pregnant women and children. As for the protection of minority women's rights, employment and education policies applied to all Japanese citizens, including minorities such as indigenous Buraku and ethnic Koreans living in Japan.

16. **Ms. Genka** (Japan) said that the Government provided employment and economic support for single mothers as part of Japan's comprehensive support policy for women in business, which was in line with the four policy pillars for achieving a desirable society. Local counselling offices also offered guidance to single mothers. As for the question asked earlier about doing away with the requirement that a woman seeking an abortion had to have the consent of her husband, parents had joint custody of their children under the Japanese Civil Code. Since the fetus was the precursor to the child, the father had the same parental authority as the mother and should be consulted if an abortion was being considered.

17. **Ms. Haidar** said that she would like to know whether the State party intended to enact comprehensive anti-discrimination legislation. It was important to ensure that government policies did not exist merely in name, but were actually effective; surveys and statistics were crucial in measuring their effectiveness. While she welcomed the information provided on Buraku women, further details on other minorities and the situation of women with disabilities would be appreciated.

18. **Ms. Jahan** said that additional information was needed on measures to promote the education of women belonging to ethnic minorities, female migrants, and women and girls with disabilities. The fact that the State party's general policies applied to them in theory was not enough: their specific situation called for special measures. It was encouraging to learn that economic support was provided to minority women, especially for purposes of education; she would like to know whether Japanese language training, specifically, was provided to them at a concessional rate. Had subsidies to Korean schools been reinstated? The State party should clarify whether sex education was provided to women with disabilities. It would also be useful to learn how the State party was addressing the problem of bullying and sexual harassment of minority women and girls in education.

19. **Ms. Pimentel** said that she would like to know whether the State party was considering explicitly legalizing abortion in cases of rape or fetal malformation. The Committee would encourage the State party to reconsider its position regarding eugenic protection, which many international organizations, including the World Health Organization, opposed.

20. **Ms. Schulz** said that the State party should indicate what measures had been adopted to protect lesbian, gay, bisexual and transgender people against discrimination in the workplace. It was regrettable that reparations had not been made to the thousands of women who had been subjected to forced sterilization, as had been recommended by the Human Rights Committee in 1998. It would be useful to know what steps were being taken to ensure that the health system provided adequate care, including sexual and reproductive health services, to the lesbian, gay, bisexual and transgender population. Did Japan conduct reviews of health-care institutions to identify potential problems in that connection?

21. **Ms. Zou** Xiaoqiao said that the State party should be more specific about the measures, including any benchmarks or incentives, being used to promote women's participation in public life in such a way as to reflect the full diversity of the population. With regard to the implementation of article 11 of the Convention, she would like to know whether gender-sensitive assistance was made available to female victims of sexual harassment and to women who fell victim to harassment in the workplace after becoming pregnant or giving birth.

22. **Ms. Takegawa** (Japan) said that laws on the prohibition of discrimination in employment and on the right to equal opportunity already existed; Japan therefore did not envisage enacting comprehensive anti-discrimination legislation. Research on the living conditions of Ainu people in Hokkaido and elsewhere had been conducted; as for the Buraku people, no large-scale studies had been done since the termination of the special measures first adopted in 1969 to improve the situation of those people.

23. **Mr. Komatsuzaki** (Japan) said that municipal boards of education were responsible for deciding whether or not children, including those belonging to minority groups, could be enrolled in the standard education system. Foreign students were permitted to enrol in special schools that catered to nationals of other countries. Japanese language training, supported by the Government, was made available to foreigners living in Japan in order to facilitate their daily activities. Schools made sex education available in line with children's stage of development and parents' inputs; instruction in that area focused on the importance of health, the prevention of sexually transmitted disease, in particular HIV, and respect for one another; individual guidance was also sometimes provided. The Government was working with boards of education to ensure compliance with the teachers' code of conduct and thus provide for a better learning environment.

24. **Ms. Genka** (Japan) said that labour standards applied to all persons in the workplace; therefore, any violations of those standards, including in respect of minorities and persons identifying as lesbian, gay, bisexual or transgender persons, could be contested on the basis of existing laws dealing with the settlement of labour disputes. The equal opportunity section of each prefecture's labour office was responsible for dealing with cases of sexual harassment and harassment of pregnant women or new mothers who went back to work; leaflets were distributed to inform people that the office could be consulted for guidance. If breaches of the law were suspected, the office sent representatives to visit the business enterprise against which a complaint had been lodged. In 2014, over 11,000 inquiries had been received by prefecture labour offices and, of the 8,000 businesses that had been visited, more than 90 per cent had taken corrective action within one year. The universal health-care scheme covered all Japanese citizens, including sexual minorities.

25. **Mr. Mizushima** (Japan) said that, out of a total of 154 Japanese ambassadors, 10 were women, but in recent years, the Government had taken steps to ensure that mothers were provided with more flexibility with regard to maternity leave and day care and that when officials were posted overseas, their spouses could accompany them. He therefore hoped that the number of female ambassadors would continue to increase. A total of 36 women had been appointed to posts in international organizations between 2006 and 2013, and there were now more women than men representing Japan in international organizations.

26. **Ms. Takegawa** (Japan) said that the Government had set a goal of having 30 per cent of the seats in the two houses of the Diet occupied by women by 2020 and had approached political parties to raise their awareness of that goal. The ratio of women to men recruited for government posts varied by grade. The Government had also set specific targets for increases in the number of women in official positions, including at the director level, as part of its Fourth Basic Plan for Gender Equality. Under the Act

on the Promotion of Women's Participation and Advancement in the Workplace, businesses were to be mandated to devise action plans for the implementation of that legislation.

27. **Ms. Pomeranzi**, referring to the Act on Special Measures concerning Support for Employment of Mothers in Fatherless Households and Fathers in Motherless Households, which had come into effect in 2013 and represented a shift away from a welfare approach, said that she wished to know whether the Government had duly considered the impact of the new legislation on women, since most single parents were women. The Committee had received information which indicated that elderly women and minority women continued to experience multiple forms of discrimination. Furthermore, there were reports that a considerable gap existed between men and women in terms of pension benefits. She would therefore like to know how the Government intended to modify the pension scheme in order to guarantee minimum living standards for elderly women. Lastly, she was concerned that the Act on the Provision of Disaster Condolence Grants, which gave preference to persons who were their households' primary source of income — typically, men — appeared likely to discriminate indirectly against women.

28. While the Government's efforts to narrow the gender gap were commendable, it was important to understand the actual impact of the strategies being implemented. In the case of the strategy for giving preferential treatment to business women, it would be helpful if the State party could provide additional data on the number of women-owned businesses that received government support and the number of new businesses founded by women in the past year. The collection of gender-related data and the tracking of progress in promoting women's empowerment would contribute to the implementation of the Government's 2020 agenda.

29. **Ms. Gabr** said that the Committee would appreciate details on any measures taken thus far to further encourage rural women to make use of their abilities in managing life in rural areas and in maintaining and revitalizing local communities. Such information was especially important in the light of the downward trend in the number of rural workers and the Committee's development of a general recommendation on rural women. Additional information would also be welcome on any mechanisms in place for the assessment of the implementation of the rules and regulations adopted since 2010 on the situation of rural women; on the reasons for the limited participation of rural women in public life; on the percentages of women who owned farms and who were certified farmers; and on the number of women who were in receipt of interest-free loans.

30. Given the increasingly long life expectancy of women in Japan, it would be useful to have a full account of the poverty rate among heads of household who were elderly women or women who belonged to minority or indigenous groups. The general lack of statistics on women from minority and indigenous groups was unfortunate, as accurate data were very helpful in devising programmes to empower such women. According to alternative sources, of the 14 members of the Council for Ainu Policy Promotion, only one was an Ainu woman; she would welcome more information in that regard. The Government's acceptance in 2016 of foreign domestic workers in order to facilitate women's active role in civil society was a welcome decision. However, it was important to take steps to prevent abuses of the labour rights of foreign domestic workers. In addition to ratifying related ILO conventions, Japan needed to take further steps to protect the human rights of migrant workers and their families.

31. **Ms. Haidar** said that the State party was to be commended for having played a leading role in disaster risk reduction over the past decade and in the work leading up to the adoption of the Sendai Framework for Disaster Risk Reduction 2015-2030.

Although the State party had mainstreamed the gender perspective into its disaster risk reduction policy, the implementation of that policy had been far from ideal. Thus, of those responsible for emergency response at the local level, 25 were men and 2 were women in Iwate Prefecture, 15 were men and 1 was a woman in Miyagi Prefecture and 14 were men and 1 was a woman in Fukushima Prefecture. As there was clearly a gap between policy and practice, she wondered how the Government proposed to address the issue. The situation also reflected more general stereotypes whereby women were deemed incapable of assuming crucial responsibilities in that arena. She would like to know what action had been taken to improve the situation through capacity-building and to address the bottom-up resistance to the implementation of the policy. Women should be included in all stages of risk reduction and prevention activities.

32. **Ms. Takegawa** (Japan), responding to earlier questions about landownership and the unpaid work performed by rural women, said that unfortunately the Government had no quantifiable data on smallholdings, as no surveys on family-run farms had been conducted. However, small-scale farmers were encouraged to enter into family management agreements which covered various aspects of working conditions and remuneration.

33. In the wake of a disaster, the main breadwinner was paid twice as much compensation as other household members, regardless of the breadwinner's sex. Where necessary, loans were granted to enable victims to rebuild their lives. In the area of disaster risk management, the aim was to raise the percentage of women on disaster prevention councils to 30 per cent and to increase the number of women in charge of operating evacuation and temporary shelters. Both men and women should be engaged in managing risk reduction.

34. **Ms. Genka** (Japan) said that pension amounts were determined on the basis of the premiums paid into the social insurance system, although some adjustments could be made in the case of persons who had earned very low wages or had worked for only a short time. There were plans to reduce the qualifying period from 25 years to 10 years for both men and women. The issue of a minimum level of income had to be addressed within the framework of the social security system as a whole.

35. It was incorrect to say that the Government lacked data on the country's minorities. A number of surveys had been carried out on the Ainu by the Government and by the Hokkaido Prefecture. Large-scale surveys of the Buraku had also been conducted. As for persons of Korean origin, the Government could supply the Committee with education and employment statistics.

36. **Ms. Halperin-Kaddari** said that, while the concept of "deferred community property", whereby assets accumulated during marriage were divided equally in the event of divorce, had been developed in the country's case law, it was not established in any specific piece of legislation. She would like to know why that was the case. Clear rules were needed, especially in Japan, where 90 per cent of divorces were concluded by agreement. Wives' financial interests were jeopardized by the fact that property was usually registered in the husband's name and husbands were not required to disclose their financial situation. She would like to know what factors came into play when assets were distributed: were work-related benefits, such as pensions and saving plans, divided equally? Were the career opportunities and earning potential sacrificed by mothers in order to care for their children taken into account? She was concerned that no judicial review of decisions regarding custody or child support was available, particularly in view of the fact that, because most divorces did not involve an agreement on childcare, only 20 per cent of the children of divorced parents received child support. It was therefore no surprise that the poverty rate for households headed by single women was 55 per cent. Lastly, she asked whether

consensual unions were recognized when it came to the payment of social benefits and the division of property and whether the same rules applied to same-sex couples.

37. **The Chair**, speaking as a member of the Committee, asked what the situation of a foreign woman married to a Japanese man was following separation or divorce.

38. **Mr. Otsuka** (Japan) said that, in the event of divorce, the financial situation of the parties was taken into account in dividing up the assets. Where no agreement could be reached, the family courts determined the value of the assets and decided on how they were to be divided. The Legislative Council of the Ministry of Justice had issued a report on the possibility of enacting a law on the matter in 1996, but no legislation had yet been introduced. The Government would keep the situation under review. The imposition of uniform rules, however, came with its own problems. He could confirm that all assets were subject to division, including retirement savings, insurance claims and government pensions. It was important to ensure that single-parent households received sufficient support following divorce. A partial revision of the Civil Code had therefore been conducted in 2011 and, under the revised provisions, the divorcing couple could decide on the level of support to be provided. Moreover, the Ministry of Justice had added an item to its registration procedure whereby parents were required to indicate whether childcare expenses would be shared. A leaflet was being prepared to help divorcing parents understand the system. The Civil Code would also be amended to introduce a financial disclosure procedure.

39. **Mr. Saita** (Japan) said that, if a foreign woman married to a Japanese man had permanent residence status, she retained that status following divorce. If she had a type of visa that was dependent on her marital status but was a victim of domestic violence, due consideration would be given to the case by the Immigration Bureau of the Ministry of Justice. Each case was judged on its merits.

40. **Ms. Halperin-Kaddari** asked the delegation to comment in greater detail on the protection afforded to unmarried couples and same-sex couples. She also wondered whether the Government had considered introducing a system of judicial review of private agreements.

41. **Mr. Otsuka** (Japan) said that the issue of child support was often handled by agreement, but in the case of a dispute, the family courts issued a decision. A study of the possibility of introducing a financial disclosure system had just been initiated. As for the question of the rights of same-sex couples, the Government considered that, in the absence of a marriage contract, careful consideration had to be given to each case on an individual basis. In the case of couples who had been in consensual unions, property accumulated jointly during their time together was divided in accordance with the Family Code.

Tribute to Mr. Boutros Boutros-Ghali

42. **The Chair** said that she had just learned of the death of Mr. Boutros Boutros-Ghali, former Secretary-General of the United Nations. Mr. Boutros-Ghali had always championed human rights, peace and impartiality in the United Nations. To her, personally, he had been a mentor and she had considered him to be like a second father.

43. **Mr. Sugiyama** (Japan) said that he wished to extend the deep condolences of the Government and people of Japan on the occasion of the death of Mr. Boutros-Ghali.

The meeting rose at 5.05 p.m.